

Message Text

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PAGE 01 GENEVA 04533 071736Z

ACTION EB-07

INFO OCT-01 IO-13 ISO-00 FEA-01 CEA-01 CIAE-00 COME-00

DODE-00 FRB-03 H-01 INR-07 INT-05 L-03 LAB-04

NSAE-00 NSC-05 PA-01 EPG-02 AID-05 SS-15 STR-04

ITC-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01 AF-10

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TO SECSTATE WASHDC 8035

INFO ALL EC CAPITALS

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PASS AGRICULTURE AND STR

E.O. 11652: N/A

TAGS: ETRD GATT EAGR EEC

SUBJECT: GATT PANEL ON EC NFDM COMPULSORY PURCHASES SCHEME

REF: GENEVA 3532

1. WE LEARNED FROM THE GATT SECRETARIAT THAT THE PANEL ON NFDM WILL BE HOLDING THREE MEETINGS IN THE COURSE OF JUNE, THE LAST ONE ON JUNE 24. IT IS, HOWEVER, MOST UNLIKELY THAT THE PANEL WILL REACH A CONCLUSION BEFORE SEPTEMBER.

2. MEANWHILE THE EC HAS SUBMITTED TO THE PANEL ADDITIONAL COMMENTS. THE PANEL DOES NOT EXPECT AN ANSWER TO THIS LAST EC PAPER UNLESS THE U.S. WISHES TO MAKE FURTHER COMMENTS.

3. FOLLOWING ARE THE EC COMMENTS.

4. QUOTE: COMMENTS BY THE EUROPEAN ECONOMIC COMMUNITY ON THE UNITED STATES DOCUMENT DATED 10 MAY 1977 CONCERNING SKIMMED MILK
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PAGE 02 GENEVA 04533 071736Z

POWDER

IN THE ABOVE-MENTIONED BRIEF DOCUMENT, THE UNITED STATES DRAWS THE PANEL'S ATTENTION TO THE MAIN ISSUE WHICH, IN ITS VIEW, IS ALLEGED VIOLATION BY THE EUROPEAN ECONOMIC COMMUNITY OF THE PROVISIONS OF THE GENERAL AGREEMENT REGARDING MIXING (ARTICLE III:5).

5. THE UNITED STATES UNDERLINES THAT THE OVERALL SPECIFIC AND IMPLICIT INTENT OF ARTICLE III IS TO PROHIBIT THOSE INTERNAL REQUIREMENTS WHICH WORK TO RESTRICT, DISCRIMINATE AGAINST, OR ADVERSELY AFFECT IMPORTS BY GIVING FAVOURED TREATMENT TO DOMESTIC PRODUCTS.

6. THE EEC, FOR ITS PART, CAN ONLY REITERATE THE CONSIDERATIONS ALREADY PUT FORWARD WHICH PRECLUDE APPLICABILITY OF THE PROVISIONS OF ARTICLE III:5 TO THE EEC MEASURES IN RESPECT OF THE PURCHASE OF SKIMMED MILK POWDER.

7. APART FROM THE FACT THAT THE ACTUAL CONCEPT OF MIXING IS ABSENT FROM THE EEC MEASURES, THEY CONTAIN ELEMENTS THAT ARE NOT WITHIN THE PROVISIONS OF ARTICLE III:5. INDEED, THE DOMESTIC PRODUCER TOO IS REQUIRED TO PURCHASE SKIMMED MILK POWDER, AND THIS IS NEITHER IN THE SPIRIT NOR THE LETTER OF ARTICLE III:5. THE REQUIREMENT TO PURCHASE A CERTAIN QUANTITY OF SKIMMED MILK POWDER CAN BE REPLACED BY THE PROVISION OF A SECURITY. THIS CLEARLY SHOWS THAT THE PURPOSE OF THE MEASURE IS NOT TO INSTITUTE ANY MIXING.

8. AS THE EEC HAS POINTED OUT, THE MEASURES UNDER REFERENCE MUST BE EXAMINED, IN PARTICULAR, IN THE LIGHT OF ARTICLE III:1.

9. NOW, CONTRARY TO WHAT THE UNITED STATES ALLEGES, THE EEC MEASURES HAVE NOT WORKED TO RESTRICT, DISCRIMINATE AGAINST, OR ADVERSELY AFFECT IMPORTS.

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PAGE 03 GENEVA 04533 071736Z

10. OVER THE LIMITED PERIOD OF APPLICATION OF THE EEC MEASURES, THE IMPORT STATISTICS AFFORD SUFFICIENT EVIDENCE THAT EEC IMPORTS OF PROTEIN-BASED PRODUCTS INCREASED.

11. THE UNITED STATES CONTENTIONS IN THIS RESPECT, THEREFORE, SEEM UNJUSTIFIED.

12. AS REGARDS ANY PROTECTION FOR EEC DOMESTIC PRODUCTS, CLEARLY SUCH A CONTENTION IS TOTALLY GROUNDLESS BECAUSE LIKE PRODUCTS OF THE EEC WERE SUBJECT TO THE SAME REGIME AS IMPORTED PRODUCTS.

13. AS REGARDS SKIMMED MILK POWDER, THERE IS NO NEED TO RECALL THAT, GIVEN THE DURATION OF THE EEC MEASURES AND THE SMALL VOLUME OF SKIMMED MILK POWDER CONCERNED, ONE CANNOT SERIOUSLY SPEAK OF MEASURES DESIGNED TO PROTECT DOMESTIC PRODUCTION.

14. THE UNITED STATES COMMENTS WITH RESPECT TO ARTICLE II (SECURITY) REPRESENT ONLY A SUBJECTIVE POINT OF VIEW THAT MUST BE REJECTED FROM THE LEGAL AND ECONOMIC ASPECT. THE EEC, THEREFORE,

CONFIRMS ITS INTERPRETATION OF ARTICLE II:2(A) WHICH IN THE
CASE UNDER REFERENCE IS APPLICABLE TO THE SECURITY.

15. AS REGARDS THE UNITED STATES COMMENTS REGARDING ARTICLE II
(SECURITY) AND OTHER ARGUMENTS ADDUCED BY THE UNITED STATES FOR
THE ALLEGED VIOLATION OF ARTICLE I, THE EEC WISHES TO REFER BACK
TO THE CONSIDERATIONS ALREADY PRESENTED TO THE PANEL. UNQUOTE.
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